



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2015-0161; FRL-9933-32-Region 4]

Approval and Promulgation of Implementation Plans; Georgia:

Changes to Georgia Fuel Rule and Other Miscellaneous Rules

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the State of Georgia's February 5, 2015, State Implementation Plan (SIP) revision, submitted through the Georgia Environmental Protection Division (GA EPD), to modify the SIP by removing Georgia's Gasoline Marketing Rule and Consumer and Commercial Products Rule, revising the Nitrogen Oxide (NO_x) Emissions from Stationary Gas Turbines and Stationary Engines Rule, and adding measures to offset the emissions increases expected from the changes to these rules. This modification to the SIP will affect, in varying ways, the 45 counties in and around the Atlanta, Georgia, metropolitan area covered by the Georgia Gasoline Marketing Rule (hereinafter referred to as the "Georgia Fuel Area"). Additionally, EPA is also approving structural changes to the NO_x Emissions from Stationary Gas Turbines and Stationary Engines Rule included in a SIP revision submitted by GA EPD on September 26, 2006. EPA has determined that the portion of Georgia's September 26, 2006, SIP revision addressing changes to the NO_x Emissions from Stationary Gas Turbines and Stationary Engines Rule and the February 5, 2015, SIP revision meet the applicable provisions of the Clean Air Act (CAA or Act).

DATES: This rule is effective [insert 30 days after date of publication in the **Federal Register**].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2015-0161. All documents in the docket are listed on the www.regulations.gov Web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section (formerly the Regulatory Development Section), Air Planning and Implementation Branch (formerly the Air Planning Branch), Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Richard Wong of the Air Regulatory Management Section, in the Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Mr. Wong may be reached by phone at (404) 562-8726 or via electronic mail at wong.richard@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background for Final Action

On November 16, 1991, EPA designated and classified the following counties in Georgia, either in their entirety or portions thereof, as a serious ozone nonattainment area for the 1-hour ozone NAAQS (hereinafter referred to as the “Atlanta 1-Hour Ozone Area”): Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale. Among the requirements applicable to the nonattainment area for the 1-hour ozone NAAQS was the requirement to meet certain volatility standards (known as Reid Vapor Pressure or RVP) for gasoline sold commercially. *See* 55 FR 23658 (June 11, 1990). Subsequently, in order to comply with the 1-hour ozone NAAQS, Georgia opted to implement Georgia Rule 391-3-1-.02(2)(bbb), *Gasoline Marketing* (hereinafter referred to as the “Georgia Fuel Rule”), which requires the sale of low sulfur, 7.0 RVP gasoline in the 45-county Georgia Fuel Area during the high ozone season.¹ EPA incorporated the Georgia Fuel Rule into the Georgia SIP on July 19, 2004. *See* 69 FR 33862 (June 17, 2004).

¹ The Georgia Fuel Area consists of the following 45 counties: Banks, Barrow, Bartow, Butts, Carroll, Chattooga, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, DeKalb, Douglas, Fayette, Floyd, Forsyth, Fulton, Gordon, Gwinnett, Hall, Haralson, Heard, Henry, Jackson, Jasper, Jones, Lamar, Lumpkin, Madison, Meriwether, Monroe, Morgan, Newton, Oconee, Paulding, Pickens, Pike, Polk, Putnam, Rockdale, Spalding, Troup, Walton and Upson. This Area encompasses the 20-county 8-hour Atlanta ozone maintenance area for the 1997 ozone NAAQS and the 15-county 8-hour Atlanta ozone nonattainment area for the 2008 ozone NAAQS. Georgia received a waiver under section 211(c)(4)(C) of the CAA to adopt a state fuel program that is more stringent than that which was federally required for the Atlanta 1-Hour Ozone Area. The Georgia Fuel Rule requires the sale of low sulfur, 7.0 psi RVP gasoline in the Georgia Fuel Area.

On February 5, 2015, GA EPD submitted a SIP revision to modify the SIP by removing Georgia Rule 391-3-1-.02(2)(aaa), *Consumer and Commercial Products*,² and Georgia Rule 391-3-1-.02(2)(bbb), *Gasoline Marketing*, and revising Georgia Rule 391-3-1-.02(2)(mmm), *NOx Emissions from Stationary Gas Turbines and Stationary Engines used to Generate Electricity*.³ The SIP revision also includes measures to offset the emissions increases expected from the changes to these rules and a technical demonstration that these changes will not interfere with attainment or maintenance of any national ambient air quality standards (NAAQS or standard) or with any other applicable requirement of the CAA. Additionally, the State submitted a SIP revision on September 26, 2006, that contains structural changes to Georgia Rule 391-3-1-.02(2)(mmm).

Georgia Rule 391-3-1-.02(2)(mmm) reduces emissions from stationary, peak performing engines that tend to operate during high electricity demand days in the 45-county Georgia Fuel Area. The State's February 5, 2015, SIP revision modifies the rule to exempt stationary engines at data centers from the rule's NOx emission limits provided that the engines operate for less than 500 hours per year and only for routine testing and maintenance, when electric power from the local utility is not available, or during internal system failures. The rule change also limits routine testing and maintenance of these engines during the high ozone season to the hours of 10 p.m. to 4 a.m. to reduce the possibility of ozone formation due to these emissions. The September 26, 2006, SIP revision makes a structural change to the SIP-approved version of the

² The Consumer and Commercial Products Rule applies in the following 13 counties that make up the former Atlanta 1-hour ozone nonattainment area: Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale.

³ Georgia Rule 391-3-1-.02(2)(mmm) only applies in the Georgia Fuel Area.

regulation, pulling the emergency engine exemption into a new paragraph (Paragraph 7) and limits the exemption to the emission limits in Paragraph 1 of the rule.

The February 5, 2015, SIP revision includes two offset measures – school bus replacements and rail locomotive conversions – to obtain the necessary emissions reductions to offset the rule changes identified in that submittal. The State’s school bus replacement program permanently replaced 60 older school buses in DeKalb, Fayette, Henry, and Madison Counties with the newer and cleaner 2015 model year buses by October 2014. The locomotive conversion program consists of two components: 1) the conversion of 28 locomotives from Norfolk Southern Railway Company and CSX Transportation to EPA Tier 3 switch duty, Tier 3 Line-Haul, and Tier 2 Switch emissions standards, and 2) the installation of an electric layover system at the Norfolk Southern Atlanta Terminal. The State demonstrated that the offset measures result in equivalent or greater emissions reductions that are permanent, enforceable, quantifiable, surplus, and contemporaneous.

In addition, Georgia’s SIP revision includes a contingency offset measure in the event that the locomotive conversion program cannot be fully completed. The contingency measure would obtain NO_x offsets from the permanent retirement of Unit 3 at Georgia Power’s Eugene A. Yates Steam-Electric Generating Plant. Upon a determination that sufficient offsets will not be achieved within one year from the date of EPA’s final action on Georgia’s February 5, 2015, SIP submission, GA EPD will revise Georgia Rule 391-3-1-.02(12)(f), Clean Air Interstate Rule NO_x Annual Trading Program, for the purposes of retiring or reducing the appropriate New Source Set Asides and submit that rule revision, along with the Title V permit condition that requires the shutdown of Unit 3, as a SIP revision. GA EPD will use the necessary substitute emissions reductions to replace any emissions shortfall in the event the locomotive conversions

are not completed. EPA has determined that the State has successfully demonstrated that 660 tons of NO_x offset is available through implementation of the contingency measure in the event the locomotive conversion program is not completed and that the measures will be permanent, enforceable, quantifiable, contemporaneous, surplus, and equivalent.

In a notice of proposed rulemaking (NPR) published on June 26, 2015, EPA proposed to approve the February 5, 2015, SIP revision and the portion of the September 26, 2006, submission that contains structural changes to Georgia Rule 391-3-1-.02(2)(mmm). *See* 80 FR 36750. The details of Georgia's submittals and the rationale for EPA's action is explained in the NPR.

EPA received one comment on the NPR. This comment, submitted by the Society of Independent Gasoline Marketers of America and provided in the docket for today's final action, supports approval of the February 5, 2015, SIP revision but expresses concern about the timing of the action. A summary of the comment and EPA's response to the comment are provided below.

II. EPA's Response to Comment

The Commenter supports EPA's proposal to approve the State's February 5, 2015, SIP revision but notes that it is "very disturbed by rumors that EPA will approve and implement this change [during the week of July 27, 2015], which will be right in the middle of the summer fuel season." The Commenter "requests that EPA approve and implement the Georgia SIP in a manner that will not damage the fuel marketing industry and ultimately penalize those who have complied with the Agency's environmental mandate."

EPA does not view this comment as adverse, and the basis for the Commenter's concerns regarding the finalization of the rule during the week of July 27, 2015 is unclear. EPA has proposed and finalized this action under its standard rulemaking process, and it will be effective on [insert 30 days after date of publication in the **Federal Register**].

III. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporate by reference of Georgia Rule 391-3-1-.02(2)(mmm), *NOx Emissions from Stationary Gas Turbines and Stationary Engines used to Generate Electricity*. EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

IV. Final Action

EPA is taking final action to approve Georgia's February 5, 2015, SIP revision, including the section 110(l) demonstration that modifying the SIP to remove Georgia Rules 391-3-1-.02(2)(aaa) and 391-3-1-.02(2)(bbb) and revising Georgia Rule 391-3-1-.02(2)(mmm) will not interfere with attainment or maintenance of any NAAQS or with any other applicable requirement of the CAA. EPA is also taking final action to approve the portion of the State's September 26, 2006, SIP revision that contains structural changes to Georgia Rule 391-3-1-.02(2)(mmm).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submittal that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not propose to impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, October 7, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000) nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by Reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 19, 2015.

Heather McTeer Toney,

Regional Administrator,

Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart L – Georgia

2. Section 52.570 is amended:

a. In paragraph (c):

i. By removing the entries for “391-3-1-.02(2)(aaa)” and “391-3-1-.02(2)(bbb).”; and

ii. By revising the entry for “391-3-1-.02(2)(mmm)”;

b. In paragraph (e) by adding an entry to the end of the table entitled “Offset measures associated with the repeal of Georgia Rules 391-3-1-.02(2)(aaa) and 391-3-1-.02(2)(bbb) and the revision to Georgia Rule 391-3-1-.02(2)(mmm)”.

The revisions and additions read as follows:

§ 52.570 Identification of plan.

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(c) * * *

EPA APPROVED GEORGIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
**	**	*	*	*
391-3-1-.02(2)(mmm)	NOx Emissions from Stationary Gas Turbines and Stationary Engines used to Generate	May 4, 2014	[Insert date of publication in <u>Federal Register</u>] [Insert Federal	

	Electricity		Register citation]	
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(e) * * *

EPA—APPROVED GEORGIA NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
**	**	*	*	*
Offset measures associated with the repeal of Georgia Rules 391-3-1-.02(2)(aaa) and 391-3-1-.02(2)(bbb) and the revision to Georgia Rule 391-3-1-.02(2)(mmm)	Banks, Barrow, Bartow, Butts, Carroll, Chattooga, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, DeKalb, Douglas, Fayette, Floyd, Forsyth, Fulton, Gordon, Gwinnett, Hall, Haralson, Heard, Henry, Jackson, Jasper, Jones, Lamar, Lumpkin, Madison, Meriwether, Monroe, Morgan, Newton, Oconee, Paulding, Pickens, Pike, Polk, Putnam, Rockdale, Spalding, Troup, Walton and Upson.	May 4, 2014	[Insert date of publication in <u>Federal Register</u>] [Insert Federal Register citation]	Includes the contingency offset measure in the event that the locomotive conversion program cannot be fully completed.

[FR Doc. 2015-21536 Filed: 8/31/2015 08:45 am; Publication Date: 9/1/2015]